

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
EASTERN DIVISION

| | | |
|--------------------|---|---------------------------|
| MILTON GIBSON, |) | |
| |) | |
| Plaintiff, |) | |
| |) | |
| vs. |) | Case No. 1:08CV241-SA-DAS |
| |) | |
| MICHAEL J. ASTRUE, |) | |
| COMMISSIONER OF |) | |
| SOCIAL SECURITY, |) | |
| |) | |
| Defendant. |) | |

ORDER ADOPTING REPORT AND RECOMMENDATION

Upon consideration of the file and records in this case, the court finds that the Report and Recommendation of the United States Magistrate Judge dated April 9, 2009, was on that date duly filed and the parties notified; that more than ten days have elapsed since notice of said Report and Recommendation; and that no objection thereto has been filed or served by any party. The court is of the opinion that the Report and Recommendation should be approved and adopted as the opinion of the court.

It is, therefore, **ORDERED**:

1. That the Report and Recommendation of the United States Magistrate Judge dated April 9, 2009, be, and it is hereby, approved and adopted as the opinion of the court, and that the proposed findings of fact and conclusions of law therein set out be, and are hereby, adopted as the findings of fact and conclusions of law of the court.

2. That this case is hereby **REMANDED** to the Commissioner. On remand the Appeals Council will continue to search for the missing recording. If the recording cannot be located in a

reasonable amount of time, the Appeals Council will remand this case for a *de novo* hearing.

3. That the court shall retain jurisdiction of the case and not enter a final judgment until after post-remand proceedings are completed, and the commissioner has filed with the court any such additional and modified findings of fact and decision.

This, the 15th day of May, 2009.

/s/ Sharion Aycock
UNITED STATES DISTRICT JUDGE